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January 23, 1995

Via Hand Delivery

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

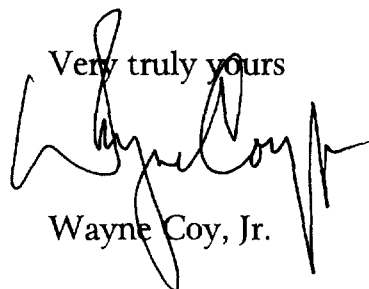
Re: Comments in MM Docket No 94-131

Dear Mr. Caton

Transmitted herewith, on behalf of The National ITFS Association, are the original and five (5) copies of its comments in the above-referenced proceeding.

Should you have any questions with respect to this filing, please contact the undersigned.

Very truly yours



Wayne Coy, Jr.

Enclosures

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BEFORE THE

Federal Communications Commission

In the Matter of)

Amendment of Parts 21 and 74 of the)
Commission's Rules With Regard to)
Filing Procedures in the Multipoint)
Distribution Service and in the)
Instructional Television Fixed Service)

and)

Implementation of Section 309(j) of the)
Communications Act - Competitive Bidding)

MM Docket No. 94-131

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PP Docket No. 93-253

TO: The Commission

Comments

Comes now The National ITFS Association ("NIA"), by and through its attorney, to file Comments in the above-captioned matter to urge the Commission and its Mass Media Bureau to exercise great care and caution in adopting filing procedures in the Multipoint Distribution Service that are fully compatible with the procedures already the subject of a pending Rule Making (MM Docket No. 93-24, released July 6, 1994). There appears to be a major difference between the window filing procedure in the ITFS docket and the predetermined geographic and electronic procedures proposed in the instant docket. Furthermore in paragraphs 7, 9, 11, and 12 there are references to interference studies with respect to "any previously proposed or authorized MDS facilities", but no reference to similarly proposed or authorized ITFS facilities which share the same

spectrum. Finally, if the two filing approaches cannot be reconciled, ITFS applicants, whether supported by excess capacity leases or not, may not be able to coordinate with filings on the MDS and MMDS channels, thus the goal of aggregation of channels may remain thwarted. In support hereof, NIA states the following:

Background

1. The NIA is an association of Instructional Television Fixed Service (ITFS) licensees, permittees, and applicants who have joined together to exchange information and ideas on effective and innovative uses of ITFS facilities, and, where and when necessary, to seek to protect ITFS spectrum and operators from the adoption of potentially adverse rulings that unduly restrict and/or limit those effective and innovative uses. Its membership is truly national in scope with members from every region of the country. The Association has been participating in all of the Rule Makings at the FCC for more than a decade in pursuit of a secure role for education in the use of ITFS facilities.

2. NIA believes it has achieved a strong and workable relationship with the Wireless Cable Association International, and further believes that a working partnership between the two industries is vital for both of them. A strong and successful wireless industry will ultimately mean a correspondingly great investment in educational facilities. Nothing in these Comments should be interpreted as posing a threat to or a limitation on the streamlining of the MDS processing line.

Discussion

3. In the instant matter, the Commission is seeking to streamline the filing and processing procedures for MDS facilities by adopting procedures consistent with competitive

bidding such as adoption of short-form applications and limiting filings to predetermined geographical areas. Alternatives include the adoption of a national window approach and one limited to existing licensees and system operators. Finally, the Commission proposes a mandatory electronic filing approach. Except for the last proposal, the Commission asserts that all of the proposed revisions would apply solely to MDS applications. Yet this seems hard to reconcile with the proposals in MM Docket No. 93-24 where a national window filing procedure was proposed, and no electronic filing was proposed at all.

4. NIA generally supports any and all measures that lead to a more rapid development of the wireless industry. However, in Paragraph 7 of the NPRM in which the Commission sets forth its "preferred" approach (the so-called "MSA/RSA/ADI approach"), applicants for E, F, and H channels in predetermined areas would be allowed to operate facilities on those channels "anywhere throughout the service area provided the specific engineering design meets the Commission's interference protection standards to any previously proposed or authorized MDS facilities". (Emphasis added). No mention is made of interference protection to proposed or authorized ITFS facilities. ITFS Channel D-4 is immediately adjacent to MMDS Channel E-1; MMDS Channel F-4 is immediately adjacent to ITFS Channel G-1; and all four of the G Group Channels are interleaved with the H Channels. There is no way any interference protection plan can work without taking the ITFS facilities into account. A similar problem exists with the Commission's discussion of interference in paragraphs 9, 11, and 12.

5. With regard to the Commission's expressed desire to facilitate the accumulation of a "critical mass" of channels, surely the need to have both ITFS (the excess capacity of which are part of such a critical mass) and MDS file applications under the same approach becomes obvious

and necessary. A national window for one and a designated market approach for the other simply won't work.

6. On another subject, requiring educators whose application is not supported by an excess capacity lessee and who may never apply for more than four channels to use an electronic application process, would put an unusual and onerous burden on them. It would seem that if the paper forms could be made compatible with the electronic forms, that would be sufficient, allowing educators to file on the paper forms and putting the burden of processing where it should fall, on the processing line.

7. Finally, if competitive bidding is to be utilized, why not allow educators in the market where the bidding will take place to file multiple applications, one with each of the MMDS applicants, so that they can benefit from whoever wins the competitive bidding and do not have to choose sides prematurely. In many, if not most, of the cases the actual identity of the winner is irrelevant to the educator. The educator would agree in advance to dismiss all applications that did not specify the winning bidder. This would make the application process faster, allow for much more rapid accumulation of channels and result in faster deployment and operation of the system.

Respectfully submitted

National IFFS Association

By 

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January 23, 1995